

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ARTURO SIMON,	)	
	)	
Petitioner-Appellant,	)	
	)	
v.	)	No. 11-3728
	)	(District Court No. 11 C 6795)
MICHAEL P. ATCHISON,	)	
	)	
Respondent-Appellee.	)	

MEMORANDUM

This Court has received a certified copy of our Court of Appeals' June 18, 2012 order remanding the case for the limited purpose of providing additional materials not contained in the record on appeal. This memorandum and its enclosures respond to that order.

As for the unpublished Illinois Appellate Court orders, photocopies of the one issued on direct appeal (dated December 14, 2007 in Case No. 1-05-2562) and the one issued on appeal from the post-conviction petition that had been filed by defendant Arturo Simon ("Simon") (that second order is dated September 3, 2010 in Case No. 1-09-2025) are enclosed with this memorandum. This Court does not, of course, prepare the record on appeal itself, and in this instance it had taken judicial notice of the Appellate Court orders, which it obtained directly from the Clerk's Office at the Illinois Appellate Court for the First District.

As for Simon's filings in those two appeals, this Court found it unnecessary to obtain them because of the grounds for disposition that it described in its October 6, 2011 memorandum opinion and order dismissing Simon's Petition and the District Court action. As the opinion stated, the 2007 Appellate Court order made it clear beyond dispute that the first two grounds included in Simon's federal habeas Petition were asserted as violations of state law (not federal constitutional violations) and were treated by the Appellate Court on those same terms. And as for the 2009

Appellate Court order, this Court's opinion confirmed that the Appellate Court had identified an independent and adequate state ground for rejection of Simon's other two grounds set out in his federal habeas Petition. So once again this Court found it unnecessary to obtain or resort to Simon's filing in that later appeal.

It is hoped that this memorandum is fully responsive to the Court of Appeals' mandate.

Respectfully submitted,

A handwritten signature in cursive script, reading "Milton I. Shadur". The signature is written in black ink and is positioned above a horizontal line.

Milton I. Shadur  
Senior United States District Judge

Date: June 21, 2012